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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,006	09/26/2003	Adriana Kliegman	435600	9528

7590 10/04/2005
Harold V. Stotland, Seyfarth Shaw
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EXAMINER

WALCZAK, DAVID J

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/673,006	Applicant(s) KLIEGMAN ET AL.	
	Examiner David J. Walczak	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-30 is/are pending in the application.
 4a) Of the above claim(s) 23-30 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-16 is/are allowed.
- 6) ☒ Claim(s) 1-3, 17, 18 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The newly recited term "lever arm" (claim 6, line 7) does not have antecedent basis in the specification. It appears that "lever arm" should be --latch arm-- (see page 6, line 21).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 17, 18 and 20-22 remain rejected under 35 U.S.C. 102(b) as being anticipated by Holiday et al. (hereinafter Holiday). In regard to claim 1, Holiday discloses a fluid dispensing apparatus comprised of a body 12 defining a fluid reservoir therein, a handle 40 carried by the body, a work engaging medium 14 carried by the body, a valve assembly 34 carried by the body for providing communication between the reservoir and the medium and a flexible and resilient button 16 mounted on the body for movement between rest and depressed positions wherein the button is manually

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deflectable to increase pressure within the reservoir in order to activate the valve and one of the button, valve and reservoir is "alterable" is size in order to provide a "variable volume orientation" of fluid dispensing so that a predetermined volume of fluid is dispensed, i.e., the various elements are capable of being designed to have different sizes and shapes in order to change the structure of the device and thereby vary the volume orientation of fluid dispensing. In regard to claim 2, the button includes a bias member 22 having a pair of ribs (viewing Figure 6A, the portion of the bellows projected inwardly) disposed along an interior of the button. In regard to claim 3, the button includes a flexible dome portion (viewing Figure 6A, the outer surface of the last bellow section adjacent element 35) depressible by a user (via element 30) to move the button inwardly to a depressed position and each rib has a "generally triangular shape" and attached to the interior in order to bias the dome outwardly to a rest position. In regard to claim 17, Holiday discloses a fluid dispensing apparatus comprised of a handle 12 having a reservoir, a button having a predetermined surface area 16 mounted on the handle, a resilient member 22 carried by the button for providing an increase in pressure when depressed, a block 15 attached to the handle and having a cleaning medium 14 thereon and a valve 34 disposed on the handle and having a "predetermined deflection operation" wherein the surface area of the button and the deflection operation of the valve coordinate to provide a predetermined volume of fluid to be dispensed and wherein, as discusses supra, one of the button, valve and reservoir is "alterable" is size in order to provide dispensing of the predetermined volume of fluid. In regard to claim 18, as discussed above, the button includes an interior rib. In regard

to claim 20, the button is "removably mounted" in an aperture in the handle. In regard to claim 21, the apparatus provides for a "variable volume orientation" of the valve and button in order to provide a predetermined volume of fluid to be dispensed. In regard to claim 22, the handle includes a plate 32 having a retaining ring 36 (see Figure 6A) into which the valve is mounted.

Allowable Subject Matter

Claims 4 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 6-16 are allowed.

Response to Arguments

Applicant's arguments filed 8/19/05 have been fully considered but they are not persuasive. The Applicant contends that the Holliday reference does not disclose that one of the button, valve or reservoir is alterable in order to provide a variable volume orientation of fluid dispensing. This claimed feature, however, merely recites that one of the aforementioned elements are capable of being altered to thereby change the dispensing volume. Clearly, the various elements of the Holliday device are capable of being so altered, i.e., should a user wish to increase the flow volume of an existing Holliday device, the various elements can be "altered" in another Holliday device to achieve the desired flow volume. The Applicant further contends that the Holliday reference does not disclose "other elements of the claim", but fails to disclose which

claimed "other elements" are not disclosed by Holliday. Accordingly, as discussed above, the Holliday reference discloses the claimed structure.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David J. Walczak
Primary Examiner
Art Unit 3751

DJW
10/3/05